

1975 WL 28847 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 19, 1975

\*1 Mr. Joseph S. Mendelsohn  
Charleston County Election Commission  
P.O. Box 633  
Charleston, S.C. South Carolina 29402

Dear Mr. Mendelsohn:

You have requested an opinion as to the contents of a ballot drafted pursuant to Section 47-29 of Act No. 283 of 1975, The "home rule" legislation. That Section provides:

In any election to determine a change of a form of government of a municipality, the question shall be framed by the governing body and printed on the prepared ballot in the following form, to wit: 'Shall the municipality of (name of municipality) change its form of government from (form selected by council or by prior election) to (form or forms requested by petition)? YES NO (strike one)'. To effect a change in the form of government a proposed form shall receive a majority of the votes cast by the qualified electors of the municipality in the election.

Although Section 47-29 does set forth the language which must appear on the ballot, it does not specify the method by which a voter is to indicate which one of the two alternate forms of municipal government he wishes to vote for, if he wishes to effect a change in the present form of municipal government.

I am enclosing herewith a copy of a pre-filed bill which, if enacted, will cure that defect by adding to the language appearing on the ballot instructions to the effect that the voter is to strike the form which he does not prefer. In the meantime, my opinion is that the ballot can be drafted in the following way without doing violence to the present language of Section 42-29:

'Shall the municipality of (name of municipality) change its form of government from (form selected by council and by prior election) to

(a) Council YES NO (strike one)

(b) Mayor-Council YES NO (strike one)?'

You have also inquired as to the contents of a petition submitted to the county election commission for its certification pursuant to Section 47-27 of Act No. 283 of 1975. Because Section 47-27 does not specify the contents of the petition and because Section 47-90 of the Act provides that:

[m]unicipal ... elections shall be conducted pursuant to Title 23, mutatis mutandi, except as otherwise provided for specifically in this chapter....

the requirements for a petition set forth in Section 23-400.16.1 of the code must be considered. That Section requires inter alia:

All nominating petitions for any political office ...

(3) Shall contain in separate columns from left to right the following:

- (a) Signature of voter;
- (b) Address of residence where registered;
- (c) Voter registration certificate Number; and
- (d) Precinct of voter....

Inasmuch as the statute is specific as to the contents of the petition, my opinion is that all of these specifics must be met.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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